

Patent & IP Strategies at Intel

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Overview

- Evolution of Attitudes Toward Patents
- Perils of Exploiting IP
- Patents in Joint Development

Attitudes Toward Patents

- Value and use depends on conventions of industry
 - Biotech versus Semiconductors / Computers
- Stages of evolution in patent valuation & strategy in semicon / computer industry
 - Indifference
 - “Silver Bullet”
 - Self defense
 - Toll collection
 - Synergistic use
 - Enabling
 - Business support

Industry Patent Conventions

- Semicon / Computers
 - Most products based on previous inventions
 - Complex hardware / software subject to 1,000+ patents
 - Many players hold many important patents
- Biotech
 - Few patents per product
 - Little overlapping patent coverage
 - Patents used mainly to exclude competitors
 - Over time, may become like computers / electronics

Stage 1: Indifference

- Busy forming company / creating products
- Patents a distraction
- Disclosure requirements may seem threatening
- Strategy: Ignore patents

Stage 2: Silver Bullet

- Need patents for credibility with investors & customers
- Need patents to “protect” product
- Strategy:
 - Get patents on key features of your products
 - Never license

Stage 3: Self Defense

- Need big & broad portfolio to defend against big portfolios
- Strategy shifts to:
 - License as needed for defense
 - Continue to hold “silver bullets” when possible
- Many stop here

Stage 4: Toll Collection

- Find companies that “need” a license
- Strategy: License almost everything for a “reasonable royalty”
- Some businesses skip to this stage
 - E.g., Lemelson

Stage 5A: Enabling

- Find licensable technologies within your company
- Find 3d parties interested in your licensable technologies
- Strategy:
 - License patents in conjunction with licensable technologies
 - Adds value, yields higher royalties
 - But, more difficult, requires marketing and real technology transfer

Stage 5B: Business Support

- Use patents to support business goals
 - E.g., line up customers or suppliers
- Take design wins / incremental business instead of royalties

Perils of Exploiting IP

Current Environment

- Many now attempting to exploit IP
- “Rembrandts in the Attic”
- Lots of consultants
- Internal pressures
- Government direction

Problems

- Lack of internal experience
- Lots of advice from competing / conflicting sources
 - Attorneys
 - IP Consultants
 - Big accounting firms
- Corporate pressure
- Rushing, insufficient big picture planning

Missteps Result

- Uncertainty about goals – e.g., enabling, toll collection, or business support
 - May lead to sending wrong message
- Using the wrong messenger
 - Using attorney to open / lead business discussions
- Contacting the wrong person
 - First contact with target's legal department to open business discussions
- Inadequate strategies
 - Business plan
 - Litigation plan

Consequences

- Missed business opportunities
- Strained corporate relationships
- Business disruptions
- Unwanted litigation

Lessons

- Map a complete strategy for each IP or patent portfolio
- Fully research and understand your target
 - Know what is important to target
 - Know who to contact at target
- Clearly send the right first message
- Minimize missteps to maximize value

Patents in Joint Development

- Usual treatment
 - Joint ownership of patents on joint inventions; or
 - Joint ownership of all patents developed in joint project
- Problem
 - Large semicon companies have lots of cross licenses
- Result (under US law)
 - Jointly owned patents licensed to ALL of BOTH parties' cross licensees
 - Patents have little value if broadly licensed immediately for free

Alternative

- Split ownership of joint development patents
 - Lots of schemes, e.g., draft choices, auction system, etc.
 - Other party gets non-exclusive license, but no sublicense rights
- Benefit
 - No license to other party's cross licensees